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ABSTRACT

The interest in the research conducted on the level of understanding that jurors have of the instructions used in Florida criminal trials, the impact of time delay on juror comprehension, the value of reading a copy of the instructions as they were presented orally by the judge, and the relationship between comprehension of the law and attitude toward it, convinced the Florida Board of Regents to establish a research center. The purpose of the center is to combine the skills and knowledge of the legal, communication, and behavioral disciplines so as to examine the trial process and increase the efficiency of this forum for conflict resolution. Since the founding of the Institute for Study of the Trial in 1978, more than 200 judges, lawyers, and social researchers have attended two annual conferences. Research currently underway includes studies of attitudes toward capital punishment, the impact of defendants taking the stand in their own behalf, and the relationship between jury verdicts and the seriousness of the crime. Several educational projects and communication workshops are also underway. The appearance of a new journal, "Communications and the Law," has further helped bridge the gap between the theory advancement concerns of the communication journals and the real world applicability demanded of the legal publications. (HCD)

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INTERACTION WITH THE LEGAL PROFESSION*

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The 1966 publication of The American Jury provides a logical starting point for a discussion of the interaction between the Communication and Legal professions. In the preface of their pioneering work, Kalven and Zeisel stated the purpose of their project and eloquently expressed the intent of those who followed their lead. They sought "to bring together into a working partnership the lawyer and the social scientist...to marry the research skills and fresh perspectives of the one to the socially significant problems of the other, and in the end to produce a new scholarship and literature for both" (p. v).

The important phrase contained in their ambitious objective is "working partnership." The two professions must work together with mutual respect and cooperation if the efforts of each are to be beneficial to the other. This mutuality characterized our experience at the University of Central Florida. In 1974, Raymond Buchanan, Chairman of the Communication Department at UCF (then Florida Technological University), received a letter from Judge David U. Strawn of Florida's 18th Judicial Circuit. Strawn, a Speech major and intercollegiate debater as an undergraduate, was concerned about the communication between judge and jury. Specifically, his concern was directed at the Pattern Instructions used in Florida criminal trials. Although the State had standardized the instructions the judge reads to the jury before it begins deliberating a verdict, Strawn remained unconvinced that the layman jurors fully understood those instructions.

Others have questioned the effectiveness of Pattern Instructions. Nieland clearly identified the problem. "For the most part, drafting committees are composed solely of judges, lawyers, and law professors. While these individuals communicate very well with each other in the special language of the law, few are well enough versed in semantics to communicate legal concepts to jurors in a short time with a high rate of success" (1979, p. 23).

My colleagues and I assisted Judge Strawn in studying the level of understanding jurors have of the Pattern Instructions. Our findings revealed that the mean score on a comprehension test developed from the content of the instructions was 72%. More than half of the jurors tested misunderstood the meaning or correct application of such key concepts as presumption of innocence or circumstantial evidence (Buchanan, Pryor, Taylor & Strawn, 1978; Strawn and Buchanan, 1976).

Our initial investigation led to other important and related issues. We studied the impact of time delay on juror comprehension, the value of

CS503165

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reading a copy of the instructions as they were presented orally by the judge and the relationship between comprehension of the law and attitude toward it. The findings indicate that reading the instructions while they are being delivered by the judge enhances comprehension. We also learned that attitudes toward the law do affect comprehension and application of the law (Pryor, Taylor, Buchanan & Strawn, 1980). (Strawn, Taylor, Pryor & Buchanan, 1976)

A series of projects developed from our early research with Judge Strawn. We received LEAA funding for a major investigation of jury decision making. This research suggests that much can be done to improve the application of Pattern Instructions (Strawn, Buchanan, Pryor & Taylor, 1977; Taylor, Buchanan, Pryor & Strawn, 1979; Taylor & Etheridge, 1980; Taylor, Buchanan, Pryor & Strawn, 1980).

The success of our courtroom research provided the opportunity to investigate the impact of cameras in the courtroom when Florida introduced still and television cameras into selected courtrooms on an experimental basis in 1977. We surveyed judges, attorneys, witnesses and jurors involved in cases where cameras were permitted. Our findings were sent directly to the Florida Supreme Court to aid them in deciding the fate of courtroom photography (Strawn, Buchanan, Meeske & Pryor, 1978). This research further demonstrates that while cooperation and accessibility are vital for studying judicial process, the presence of outsiders in the courtroom is not always welcome (Pryor, Strawn, Buchanan & Meeske; 1979, Buchanan, Strawn, Pryor & Meeske, 1980).

The interest in our research and the practical value of our findings convinced the Florida Board of Regents of the need for a research center whose purpose would be to combine the skills and knowledge of the legal, communication and behavioral disciplines to examine the trial process and maximize the efficiency of this important forum for conflict resolution.

The Institute for Study of the Trial was established at the University of Central Florida in 1978 as a research and education center. Through the Institute's conferences, workshops and publications' attorneys, judges, court administrators and social scientists share their knowledge and experience and mutually benefit from this unique educational opportunity.

Since the founding of the Institute for Study of the Trial, more than two hundred judges, lawyers and social researchers have attended its two annual conferences. Panelists have exchanged views on topics as diverse as the fallibility of eyewitness testimony, the trial in 2100, how jurors reach a verdict and ethics in the courtroom. Gerald R. Miller, Thomas Steinfatt and Dennis Gouran are three researchers from the field of Speech Communication who have participated in these conferences. The theme of our first conference was "The Trial of Tomorrow." Our 1980 conference focused on "Trial Advocacy: Strategic Consideration in Persuasion." Possible future themes include: "The Psycho-Dynamics of the Trial," "The Attorney's Audience" and 'The Civil Trial."

Another recent project undertaken as a result of our trial-related research generated national interest in our findings. In December, we conducted a telephone survey to determine public knowledge and attitudes about Theodore Bundy and the Kimberly Leach Case. Bundy, convicted of the murder of two Chi Omega sorority sisters at Florida State University, was charged in the murder of a twelve-year-old Lake City girl. A change of venue ruling brought the trial to Orlando. Our telephone survey results were introduced at the trial to support the defense motion for a second change of venue (Taylor & Buchanan, 1980).

The potential for interaction between the communication and legal professions is limited only by the creativity and utility of our efforts. Research currently underway at UCF includes studies of attitudes toward capital punishment, the impact of a defendant taking the stand in his own behalf and the relationship between jury verdicts and the seriousness of the crime. These topics arose from our earlier research and are the logical next steps in the search for understanding how communication variables affect the trial process. These projects, however, also reflect the questions raised by those in the legal profession who have been interested in our research, the persons who ultimately determine the value of our effort. For understanding apart from application provides knowledge without utility.

Several educational projects are underway or planned by the Institute. Communication workshops are being developed for area Bar Associations, county and circuit judges and other groups interested in translating communication theory to the courtroom. A projected series of videotaped trials will be available to school and community organizations interested in various aspects of the judicial system. At present, my colleagues and I are developing the training modules for Florida's Guardian Ad Litem Program. Sponsored by a $200,000.00 appropriation from the State Legislature, this project will train volunteer guardians to serve as extensions of the court in helping abused and neglected children.

Research of any type is expensive and time consuming. Funding remains an ongoing concern for anyone involved in legal communication research. Social scientists often travel many miles to find a cooperative judge and an available courtroom. The obvious advantage of using members of actual jury venires may necessitate the added expense of paying the project participants for their time. The use of electronic equipment for recording trials and deliberations presents still another costly research expense item. The financial liability inherent in legal communication research can best be met with the support and cooperation of the legal profession and the judiciary. National, state and local sources are available for research that is significant, relevant and practical.

The task of the communication researcher is to become aware. Three specific area of awareness are vital for a successful research project in legal communication: (1) We must become aware of the communication problems

facing those in the legal profession and be able to translate our theory and research in their unique environment. (2) We must become acquainted with lawyers, judges and court administrators who will explain the judicial process and cooperate in allowing research within the courtroom and, where possible, with persons actually involved with the judicial process. (3) Funding sources must be found! LEAA, Criminal Justice Task Forces, the ABA and numerous state agencies have monies available for legal research.

The ultimate success of an ongoing research effort depends on making others aware of our research. Legal journals with national readerships, such as The Judges' Journal, Judicature and Trial, state Bar Association Journals and the numerous Law Reviews welcome communication manuscripts of interest to attorneys, judges and others in the legal profession. Ironically, editors of communication journals have been much less receptive to our research reports than have the editors of legal journals. The appearance of a new journal, Communications and the Law, may help bridge the gap between the theory advancement concerns of the communication journals and the real world applicability demanded of the legal and judicial publications. In its premier issue, the editor of Communications and the Law observed: "Expanding technologies, aggressive use of the media by business, censorship, public opinion formation by government: these and scores of communications issues have daily impact upon legislative, legal, and judicial affairs. Communications and the Law is devoted to the study and discussion of such issues" (1979, inside cover). This statement suggests that this journal may provide the proper forum for merging communication theory with legal practice.

Publications such as the Proceedings of the 1980 Conference of the Institute for Study of the Trial offer another opportunity for communication scholars to apply their theoretical perspectives to the real world of the courtroom. The Institute encouraged participation by communication researchers through travel grants awarded to those whose research was selected for presentation at this year's conference (Trial Advocacy: Strategic Considerations in Persuasion, 1980). We hope this financial support for outstanding scholars will continue at future conferences sponsored by the Institute for Study of the Trial.

The interaction between the communication and legal profession has begun. It has started in county court houses in Florida, New York, Ohio, Michigan and other states where communication researchers and members of the legal profession have established a working partnership. This interaction will continue so long as it is accompanied by respect, cooperation and efficiently advances the judicial process.

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